

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
WESTERN DIVISION

-----x  
NATIONAL EVALUATION SYSTEMS, )  
INC., )  
 )  
Plaintiff, ) Civil Action No. 05-30081-~~MAP~~ <sup>MAP</sup>  
 )  
v. )  
 )  
NES, LLC d/b/a NATIONAL )  
EDUCATIONAL SERVICE, )  
 )  
Defendant. )  
-----x


STIPULATED ORDER OF DISMISSAL WITH PREJUDICE  
PURSUANT TO FED. R. CIV. P. 41(a)(1)

Subject to a confidential Settlement Agreement and the approval of the Court, the parties to the above-captioned action hereby stipulate as follows:

1. This Court has jurisdiction over each of the parties to this action and over the subject matter in issue. Venue is proper in this Court.
2. All claims filed in this action are hereby dismissed with prejudice, each party to bear its own costs and attorneys' fees in connection with the above-captioned action.
3. This Court shall retain jurisdiction over this matter to enforce the terms of the Settlement Agreement.

SO ORDERED:

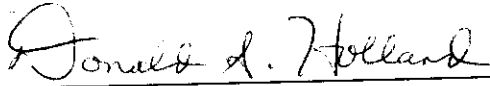
Dated: June 27, 2005

  
The Honorable Michael A. Ponsor  
United States District Judge

Approved as to form:

ATTORNEY FOR PLAINTIFF

ATTORNEY FOR DEFENDANT



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Date: JUNE 9, 2005



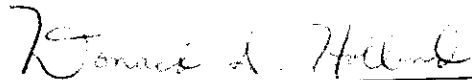
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Date: JUNE 8, 2005

[041731/0003]

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "STIPULATED ORDER OF DISMISSAL WITH PREJUDICE PURSUANT TO FED. R. CIV. P. 41(a)(1)" has been served, via first-class mail, on this 15<sup>th</sup> day of June 2005 to: Diane M. DeGiacomo, Esq., CAIN, HIBBARD, MYERS & COOK, P.C., 66 West Street, Pittsfield, MA 01201.



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